

AMENDED IN SENATE APRIL 25, 2006

AMENDED IN SENATE MARCH 30, 2006

SENATE BILL

No. 1829

Introduced by Senator Lowenthal

February 24, 2006

An act to add Section 39619.8 to, and repeal Section 40720 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1829, as amended, Lowenthal. Marine terminals: air emissions.

(1) Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law requires each marine terminal in the state to operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to load or unload at the terminal, and charges the applicable district with enforcing the requirement, as provided.

This bill, instead, would require each marine terminal to operate in a manner that does not cause trucks to idle or queue for more than 30 minutes while waiting to enter the terminal or for more than 30 minutes per transaction, as defined, from the first point of entry into the marine terminal until the time the truck has passed through the final exit gate. A violation would be subject to a \$250 fine. Any owner or operator of a marine terminal or port, or any agent thereof, who acts

to avoid or circumvent these requirements would be subject to a \$750 fine. The bill would require the state board to monitor and enforce these provisions. The bill would specify that the owner or operator of a marine terminal does not violate the provision prohibiting trucks from idling or queuing for more than 30 minutes while waiting to enter the gate into the marine terminal or for more than 30 minutes per transaction, if the delay is caused by specified events. Because this bill would create new crimes, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 39619.8 is added to the Health and
- 2 Safety Code, to read:
- 3 39619.8. (a) Each marine terminal in the state shall operate
- 4 in a manner that does not cause trucks to idle or queue for more
- 5 than 30 minutes while waiting to enter the gate into the marine
- 6 terminal, and that does not cause trucks to idle or queue for more
- 7 than 30 minutes per transaction, as defined in subdivision (i),
- 8 from the first point of entry into the marine terminal until the
- 9 time the truck has passed through the final exit gate.
- 10 (b) Any owner or operator of a marine terminal that operates
- 11 in violation of subdivision (a) is subject to a fine of two hundred
- 12 fifty dollars (\$250) per vehicle per violation.
- 13 (c) Any owner or operator of a marine terminal or port, or any
- 14 agent thereof, who takes any action intended to avoid or
- 15 circumvent the requirements of subdivision (a) or to avoid or
- 16 circumvent the reduction of emissions of particulate matter from
- 17 idling or queuing trucks is subject to a fine of seven hundred fifty
- 18 dollars (\$750) per vehicle per violation, including, but not limited
- 19 to, any of the following actions:

1 (1) Diverting an idling or queuing truck to area freeways or
2 alternate staging areas, including, but not limited to, requiring a
3 truck to idle or queue inside the gate of a marine terminal.

4 (2) Requiring or directing a truckdriver to turn on and off an
5 engine on a truck while that truck is idling or queuing.

6 (3) Modifying or falsifying gate entry or exit times, including,
7 but not limited to, issuing a second gate entry time.

8 (d) The owner or operator of a marine terminal does not
9 violate this section by causing a truck to idle or queue for more
10 ~~than 30 minutes if the delay is caused by acts of God, strikes, a~~
11 ~~federal customs inspection, or declared state and federal~~
12 ~~emergencies, or if the state board finds that an unavoidable or~~
13 ~~unforeseeable event caused a truck to idle or queue and that the~~
14 ~~terminal is in good faith compliance with this section.~~ *than 30*
15 *minutes, if the delay is caused by any of the following:*

16 (1) *An act of God.*

17 (2) *A strike.*

18 (3) *A federal customs inspection.*

19 (4) *Any security inspection by the United States Department of*
20 *Homeland Security, the United States Coast Guard, or any state*
21 *or local law enforcement agency.*

22 (5) *A declared state or federal emergency.*

23 (6) *An unavoidable or unforeseeable event that caused a truck*
24 *to idle or queue and the terminal is otherwise in good faith*
25 *compliance with this section, as determined by the state board.*

26 (e) Failure to pay a fine imposed pursuant to subdivision (b) or
27 (c) shall constitute a violation of Article 3 (commencing with
28 Section 42400) of Chapter 4 of Part 4.

29 (f) Any action taken by the marine terminal to assess, or seek
30 reimbursement from, the driver or owner of a truck for a
31 violation of this section shall constitute a violation of Article 3
32 (commencing with Section 42400) of Chapter 4 of Part 4.

33 (g) Marine terminals in the state shall be monitored by the
34 state board to ensure compliance with this subdivision. The state
35 board shall determine the necessary level of monitoring and
36 enforcement commensurate with the level of the truck idling or
37 queuing problem existing at each marine terminal.

38 (h) Citations for violations of this section shall be issued by
39 the state board, and shall include the truck license plate number
40 or other unique identifier, which may include, but is not limited

1 to, the cargo container number, the name of the marine terminal
2 and port at which the violation occurred, and the date and time of
3 the violation. Each marine terminal shall provide to the district
4 that has jurisdiction over that terminal, to the state board, and
5 local or state law enforcement agencies, data on gate entry and
6 exit times, upon request.

7 (i) For the purposes of this section, the following definitions
8 apply:

9 (1) “Marine terminal” means a facility that meets all of the
10 following criteria:

11 (A) Is located at a bay or harbor.

12 (B) Is primarily used for loading or unloading containerized
13 cargo onto or off of a ship or marine vessel.

14 (C) Contains one or more piers, wharves, slips, berths, or
15 quays.

16 (D) Is located at a port that processes 100,000 or more
17 containers (20-foot equivalent units (TEUs)) annually.

18 (2) “Transaction” means any of the following:

19 (A) Pick up of a loaded container, either grounded or wheeled.

20 (B) Pick up of an empty container, either grounded or
21 wheeled.

22 (C) Delivery of a loaded container.

23 (D) Delivery of an empty container.

24 (E) Equipment repair or maintenance.

25 SEC. 2. Section 40720 of the Health and Safety Code is
26 repealed.

27 SEC. 3. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the
32 penalty for a crime or infraction, within the meaning of Section
33 17556 of the Government Code, or changes the definition of a
34 crime within the meaning of Section 6 of Article XIII B of the
35 California Constitution.